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COMPANY, ALLSTATE PROPERTY & CASUALTY
COMPANY and ALLSTATE INDEMNITY
COMPANY

(SPACE BELOW FOR FILING STAMP ONLY)

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ALLSTATE INSURANCE COMPANY,
ALLSTATE PROPERTY & CASUALTY
COMPANY and ALLSTATE INDEMNITY
COMPANY,

Plaintiffs,

vs.

OBTEEN N. NASSIRI, D.C., JENNIFER
NASSIRI, ALBERT NOORDA, M.D.,
ADVANCED ACCIDENT CHIROPRACTIC
CARE, DIGITAL IMAGING SERVICES aka
DIGITAL IMAGING SERVICES, LLC,
MARYLAND MEDICAL CENTER, LLC,

Defendants.

CASE NO. 2:08-cv-00369-JCM-GWF

**ORDER GRANTING PLAINTIFFS'
MOTION FOR PRODUCTION OF THE
UNDERLYING CLAIMANTS' HIPAA
PROTECTED RECORDS PURSUANT
TO A QUALIFIED PROTECTIVE
ORDER UNDER 45 C.F.R. §164.512**

TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:

THIS MATTER having come before this Court on the 12th day of August, 2010, in
Courtroom 3A, before the Honorable George W. Foley, on Plaintiffs' MOTION FOR
PRODUCTION OF THE UNDERLYING CLAIMANTS' HIPAA PROTECTED RECORDS
PURSUANT TO A QUALIFIED PROTECTIVE ORDER UNDER 45 C.F.R. §164.512, the
Court having an opportunity to review the papers and pleadings on file and having entertained
oral argument:

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IT IS HEREBY ORDERED that:

1. Plaintiffs’ MOTION FOR PRODUCTION OF THE UNDERLYING CLAIMANTS’ HIPAA PROTECTED RECORDS PURSUANT TO A QUALIFIED PROTECTIVE ORDER UNDER 45 C.F.R. §164.512, is **GRANTED**.

IT IS HEREBY FURTHER ORDERED that:

2. Attached hereto, as “Exhibit A,” is the QUALIFIED PROTECTIVE ORDER that is referenced in the Court’s Order above.

3. Each party will produce, on computer CD or DVD, all relevant documents to any other party making a valid discovery request for this information, and if necessary, portions of those documents will be redacted. Defendants shall produce a redacted version of the entire patient file for each and every one of the underlying personal-injury claimants for which the Plaintiffs are claiming damages against the Defendants. Plaintiffs will produce a redacted version of the entire claims file for each and every one of the underlying personal-injury claimants for which the Plaintiffs are claiming damages against the Defendants.

4. The producing party will bear the burden and expense of any redaction.

5. Each party will maintain and disclose to the other parties a redaction-log.

6. For purposes of this ORDER only, a HIPAA-protected document is “relevant” if
1) it relates to an alleged injury for which a personal-injury claim was made to the Plaintiffs, and
2) it relates to services that were provided before the date on which the personal-injury claim was settled.

7. Plaintiffs’ *Motion to Compel Discovery Responses from Defendants Obteen Nassiri, DC, Jennifer Nassiri, Advanced Accident Chiropractic, and Digital Imaging Services*, is withdrawn subject to the parties’ counsel engaging in a further discovery dispute resolution conference. Plaintiffs may file a renewed motion to compel if the parties cannot resolve the matter. The parties shall also confer regarding further extension of discovery.

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1 **PROOF OF SERVICE**

2 I am a resident of the State of Nevada, over the age of eighteen years, and not a
3 party to the within action. My business address is McCormick, Barstow, Sheppard, Wayte &
4 Carruth LLP, 8337 West Sunset Road, Suite 350, Las Vegas, Nevada 89113. On August 26,
2010, I served the within documents:

5 **ORDER GRANTING PLAINTIFFS' MOTION FOR PRODUCTION OF THE**
6 **UNDERLYING CLAIMANTS' HIPAA PROTECTED RECORDS PURSUANT TO A**
7 **QUALIFIED PROTECTIVE ORDER UNDER 45 C.F.R. 164.512**

8 **BY ELECTRONIC SUBMISSION:** submitted to the above-entitled Court for
9 electronic filing.

10 Thomas J. Doyle, Esq.
11 Brett Schoel, Esq.
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15 (916) 567-0400 Tel
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17 *Attorneys for Defendants Albert Noorda, M.D. &*
18 *Maryland Medical Center, LLC*

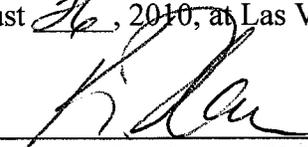
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Attorneys for Defendants/Counterclaimants/Third-Party
Plaintiffs Obteen N. Nassiri, D.C., Jennifer Nassiri,
Advanced Accident Chiropractic Care, Digital Imaging
Services aka Digital Imaging Services, LLC

I am readily familiar with the firm's practice of collection and processing
correspondence for mailing. Under that practice it would be deposited with the U.S. Postal
Service on that same day with postage thereon fully prepaid in the ordinary course of business. I
am aware that on motion of the party served, service is presumed invalid if postal cancellation
date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of Nevada that the
above is true and correct. Executed on August 26, 2010, at Las Vegas, Nevada.


An Employee of McCormick Barstow LLP

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8 UNITED STATES DISTRICT COURT
9 DISTRICT OF NEVADA
10

11 ALLSTATE INSURANCE COMPANY,
12 ALLSTATE PROPERTY & CASUALTY
COMPANY and ALLSTATE INDEMNITY
13 COMPANY,

14 Plaintiffs,

15 vs.

16 OBTEEN N. NASSIRI, D.C., JENNIFER
17 NASSIRI, ALBERT NOORDA, M.D.,
ADVANCED ACCIDENT CHIROPRACTIC
18 CARE, DIGITAL IMAGING SERVICES aka
DIGITAL IMAGING SERVICES, LLC,
MARYLAND MEDICAL CENTER, LLC,

19 Defendants.
20

CASE NO. 2:08-cv-00369-JCM-GWF

QUALIFIED PROTECTIVE ORDER

21 WHEREAS, Plaintiffs are seeking the production of records which Defendants
22 contend constitute Protected Health Information ("PHI") and Defendants are seeking the
23 production of records which Plaintiffs contend constitute PHI about third parties that is protected
24 by the Health Insurance Portability and Accountability Act of 1996;

25 WHEREAS the parties wish to prevent the possibility of any misuse or
26 unnecessary disclosure of PHI;

27 WHEREAS, while PHI is generally private information, 45 C.F.R. § 164.512
28 expressly allows for the disclosure of PHI in the course of any judicial proceeding either in

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QUALIFIED PROTECTIVE ORDER

1 response to (1) a discovery request where the parties have agreed upon a protective order and
2 have presented it to the court, or (2) a court order.

3 IT IS THEREFORE ORDERED, that the following procedures designed to ensure
4 the protection of PHI shall govern all forthcoming pre-trial discovery proceedings:

5 1. Defendants and Plaintiffs shall produce all medical records for each listed
6 claimant/patient relating to the injuries that were the subject of the patient's claim up to the date
7 the claim was resolved.

8 2. Any and all documents, materials or information produced in discovery in
9 this matter and designated as being PHI pursuant to HIPAA, such documents, materials or
10 information, including any copies, recordings, discs, prints, negative, summaries, or contents or
11 substance thereof, are subject to this Protective Order and are confidential.

12 3. This PHI may be shown, or its contents disclosed only to the following
13 persons:

- 14 (a) Counsel of record in this action and counsel's agents and
15 employees;
- 16 (b) Any expert used as a consultant or intended to be called as a
17 witness who is retained by counsel of record to assist in the
18 preparation and/or trial of this case;
- 19 (c) The parties to this action and their agents and employees; and
- 20 (d) The jury and members of the Court as necessary for a complete
21 adjudication of this matter.

22 PHI designated as subject to this Protective Order shall not be disclosed or shown to any other
23 person or entity unless or until the side wishing to make such disclosure informs the other side
24 and gives them a reasonable time to object, at least thirty (30) calendar days. In the event of
25 objection, the parties' respective counsel of record will make a good faith effort to resolve the
26 dispute informally before filing any motion with the above-entitled Court relating to said dispute.
27 If an objection is made in writing, the PHI shall not be disclosed until the Court has issued a
28 decision determining that disclosure of the document is appropriate.

1 4. PHI designated as subject to this Protective Order or any information
2 derived therefrom shall be used solely for the purpose of assisting counsel of record in connection
3 with this litigation and not for any business purpose or any other purpose whatsoever or for any
4 other litigation matter. The PHI shall be used by counsel only for purposes of this litigation and
5 for no other purpose. Any party receiving PHI shall return the PHI, including all copies made, to
6 the party providing the PHI, at the conclusion of the litigation or proceeding.

7 5. The parties may object to the disclosure of any PHI on any ground that
8 it/he/she may deem appropriate, and any party or non-party may, upon motion, seek relief from,
9 or modification of, this Protective Order based on a showing of good cause.

10 6. The designation of any information as "PHI" pursuant to this Protective
11 Order is intended solely to facilitate the preparation of this case for trial, and treatment by the
12 other party in conformity with such designation shall not be construed in any way as an admission
13 or agreement by such opposing counsel or party that the designated information contains any PHI
14 in contemplation of law. No party shall be obligated to challenge the propriety of any designation
15 by the opposing party, and a failure to do so shall not preclude a subsequent attack on the
16 propriety of any PHI designation. Any party may request a hearing in the United States District
17 Court, District of Nevada, challenging any party's classification of information as PHI.

18 7. If PHI is improperly disclosed to any person other than in the manner
19 authorized by this Protective Order, the party responsible for the disclosure must immediately
20 inform the other parties of all pertinent facts relating to such disclosure, including the name and
21 address of each person to whom disclosure was made, and shall make reasonable efforts to
22 prevent further disclosure by said authorized person(s).

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8. The United States District Court, District of Nevada shall retain jurisdiction to enforce the Protective Order after the termination of this action and that the Court may award attorneys fees and costs in any proceeding to enforce the Protective Order pursuant to FRCP 37.

IT IS SO ORDERED

Dated: _____

**UNITED STATES DISTRICT JUDGE
OR UNITED STATES MAGISTRATE
JUDGE**

Dated: August 25, 2010

Respectfully Submitted by:

**McCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP**

By: _____

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Eron Z. Cannon, NV Bar No. 8013
8337 West Sunset Road, Suite 350
Las Vegas, NV 89113
Attorneys for Plaintiffs

APPROVED AS TO FORM AND CONTENT:

Dated: August 25, 2010

AGWARA & ASSOCIATES

By: _____ //S//

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